

SIKKIM



GOVERNMENT

GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Monday 11th March, 2024

No. 78

GOVERNMENT OF SIKKIM
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT
GANGTOK

No. 11(656)L&PAD/2021/27

Date: 28.02.2024

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 20th June, 2023 is hereby published for general information:-

THE SIKKIM GOODS AND SERVICES TAX (AMENDMENT) ACT, 2023 (ACT NO. 12 OF 2023)

AN

ACT

to amend the Sikkim Goods and Services Tax Act, 2017

Be it enacted by the Legislature of Sikkim in the Seventy-fourth Year of the Republic of India, as follows:

**Short title, extent
and
commencement**

1. (1) This Act may be called the Sikkim Goods and Services Tax (Amendment) Act, 2023.
- (2) It extends to the whole of Sikkim.
- (3) Save as otherwise provided, the provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**Amendment of
section 2**

2. The Sikkim Goods and Services Tax Act, 2017 (hereinafter referred to as the "Principal Act") in section 2,

- (a) after clause (80), the following clauses shall be inserted, namely:-
 - “(80A) **“Online Gaming”** means offering of a game on the internet or an electronic network and includes online money gaming;
 - (80B) **“Online Money Gaming”** means online gaming in which players pay or deposit money or money’s worth, including virtual digital assets, in the expectation of winning money or money’s worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force;
- (b) after clause (102), the following clause shall be inserted, namely:
 - “(102A) **“Specified Actionable Claim”** means the actionable claim involved in or by way of-
 - (i) betting;
 - (ii) casinos;
 - (iii) gambling;
 - (iv) horse racing;
 - (v) lottery; or
 - (vi) online money gaming;
- (c) in clause (105), the following proviso shall be inserted at the end, namely:-

“Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money’s worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation the supply of such actionable claims.”
- (d) after clause (117), the following clause shall be inserted, namely:-
 - “(117A) **“Virtual Digital Assets”** shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income Tax Act, 1961;

**Amendment of
section 10**

- 3. In section 10 of the Principal Act, in section 10,-
 - (a) in sub-section (2), in clause (d), the words “goods or” shall be omitted;

- (b) in sub-section (2), in clause (c), the words "goods or" shall be omitted.

**Amendment of
section 16**

4. In section 16 of the Principal Act, in sub-section (2),-

- (a) in the second proviso for the words "added to his output tax liability, along with interest thereon", the words and figure "paid by him along with interest payable under section 50" shall be substituted.
- (b) in the third proviso, after the words "made by him", the words "to the supplier" shall be inserted.

**Amendment of
section 17**

5. In section 17 of the Principal Act,-

- (a) in sub-section (3), in the Explanation, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following shall be substituted, namely:-

"except,-

- (i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and
- (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule".
- (b) in sub-section (5), after clause (f), the following shall be inserted, namely:-

"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013".

**Amendment of
section 23**

6. In section 23 of the Principal Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:-

"(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

**Amendment of
section 24**

7. In section 24 of the principal Act,-

- (a) in clause (xi), the word "and" occurring at the end, shall be omitted;
- (b) after clause (xi), the following clause shall be inserted, namely:-

"(xia) every person supplying online money gaming from a place outside India to a person in India; and"

**Amendment of
section 30**

8. In section 30 of the Principal Act, in sub-section (1),-
- (a) for the words "the prescribed manner within thirty days from the date of service of the cancellation order", the words "such manner within such time and subject to such conditions and restrictions, as may be prescribed" shall be substituted;
 - (b) the proviso shall be omitted.

**Amendment of
section 37**

9. In section 37 of the Principal Act, after sub-section (4), the following sub-section shall be inserted, namely:-

"(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details".

**Amendment of
section 39**

10. In section 39 of the Principal Act, after sub-section (10), the following sub-section shall be inserted, namely:-

"(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return".

**Amendment of
section 44**

11. Section 44 of the Principal Act shall be renumbered as section 44(1) and after section 44(1) as so renumbered, the following shall be inserted, namely:-

"(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) of a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return."

- Amendment of section 52**
12. In section 52 of the Principal Act, after sub-section (14), the following sub-section shall be inserted, namely:-
- “(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:
- Provided that the Government may on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement.”
- Amendment of section 54**
13. In section 54 of the Principal Act, in sub-section (6), the words “excluding the amount of input tax credit provisionally accepted,” shall be omitted.
- Amendment of section 56**
14. In section 56 of the Principal Act, for the words “from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax”, the words “for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed” shall be substituted.
- Amendment of section 62**
15. In section 62 of the Principal Act, in sub-section (2),-
- (a) for the words “thirty days”, the words “sixty days” shall be substituted.
- (b) the following proviso shall be inserted, namely:-
- “Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue.”
- Amendment of section 109**
16. In section 109 of the Principal Act, sub-section (2) shall be omitted.
- Omission of section 110**
17. Section 110 of the Principal Act shall be omitted.
- Omission of section 114**
18. Section 114 of the Principal Act shall be omitted.

**Amendment of
section 117**

19. In section 117 of the Principal Act,-

- (a) in sub-section (1), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.
- (b) in sub-section (5), in clause (a), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted;

**Amendment of
section 118**

20. In section 118 of the Principal Act, in sub-section (1), in clause (a), for the words "National Bench or Regional Benches", the words "Principal Bench" shall be substituted.

**Amendment of
section 119**

21. In section 119 of the Principal Act,-

- (a) For the words "National or Regional Benches", the words "Principal Bench" shall be substituted;
- (b) For the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

**Amendment of
section 122**

22. In section 122 of the Principal Act, after clause (ia) , the following shall be inserted, namely,-

"(ib) Any electronic commerce operator who-

- (a) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- (b) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such Inter-State supply;
- (c) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher."

**Amendment of
section 132**

23. In section 132 of the Principal Act, in sub-section (1),

- (a) clauses (g), (j) and (k) shall be omitted;
- (b) in clause (l) for the words, brackets and letters "clauses (a) to (k)" the words, brackets and letters "clauses (a) to (f) and clauses (h) and (i)" shall be substituted.,
- (c) in sub-clause (iii) of clause (l) for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)," shall be substituted.

- (d) In sub-clause (iv) of clause (l) the words, brackets and letters "or clause (g) or clause (j)" shall be omitted.

Amendment of section 138

24. In section 138 of the Principal Act,-

(a) In sub-section (1), in the first proviso,-

- (i) for clause (a), the following clause shall be substituted, namely:-

"(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (1) of sub-section (1) of section 132,"

- (ii) clause (b) shall be omitted;

- (iii) for existing clause (c), the following clause shall be substituted, namely:-

"(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132,"

- (iv) clause (e) shall be omitted.

- (b) In sub-section (2), for the words "ten thousand rupees of fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent of the tax, whichever is higher" the words "twenty-five per cent of the tax involved and the maximum amount not being more than one hundred per cent of the tax involved" shall be substituted.

Insertion of new section 158A- Consent based sharing of information furnished by taxable person

25. After section 158 of the Principal Act, the following section shall be inserted, namely:-

"158A.

- (1) notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:-

- (a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

- (b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

- (c) such other details as may be prescribed.

- (2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of-
- (a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and
 - (b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient,
- in such form and manner as may be prescribed."

- (3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

**Amendment of
Schedule III**

26. In the principal Act, in Schedule III, in paragraph 6, for the words "lottery, betting and gambling" the words "specified actionable claims" shall be substituted.

**Retrospective
exemption to
certain activities
and transactions
in Schedule III of
the Principal Act**

27. (1) In Schedule III of the Principal Act, paragraph 7, 8 and the Explanation 2 thereof shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.
- (2) no refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

**Transitory
provision**

28. The amendments made under this Act shall be without prejudice to provisions of any other law for the time being in force, providing for prohibiting, restricting or regulating betting, casino, gambling, horse racing, lottery or online gaming.

Suraj Chettri (SSJS)
L.R.-cum-Secretary
Law & Parliamentary Affairs Department